



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
DEC 01 2010
OFFICE OF PETITIONS

In re Patent No. 7,706,282	:	DECISION
HUANG, LEPING	:	DISMISSING REQUEST FOR
Issue Date: 04/27/2010	:	RECONSIDERATION OF PATENT
Application No. 10/606,437	:	TERM ADJUSTMENT
Filed: 06/25/2003	:	UNDER 37 CFR 1.705(d)
Attorney Docket No. 088245-0113	:	

This is a decision on the petition under 37 CFR 1.705(d), filed June 21, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred sixty-six (166) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee acknowledges 44 days of A delay, 265 days of applicant delay, and 0 days of overlap. However, patentee's calculation of the number of days of B delay is incorrect.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on June 26, 2006, and ends on July 17, 2007, the day before the RCE was filed, and is 387 days. See 35 U.S.C. 154(b)(1)(B)(i). However, patentee failed to account for the

filing of the notice of appeal on May 10, 2007. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii); 37 CFR 1.703(b)(4).

In this instance, the period consumed by appellate review is 69 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, May 10, 2007, and ending on the day before the filing of the RCE, July 17, 2007. Thus, B delay is 318 days (387 - 69).

Accordingly, the patent term adjustment is 97 days (44 days of A delay + 318 days of B delay - 265 days of applicant delay).

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions